

AMENDED IN SENATE MAY 6, 2015  
AMENDED IN SENATE APRIL 6, 2015

**SENATE BILL**

**No. 643**

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**Introduced by Senator McGuire**

February 27, 2015

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An act to amend Section 2220.05 of, to add Article 25 (commencing with Section 2525) to Chapter 5 of Division 2 of, and to add Part 5 (commencing with Section 18100) to Division 7 of, the Business and Professions Code, to add Section 23028 to the Government Code, and to amend Section 11362.775 of, and to add Article 8 (commencing with Section 111658) to Chapter 6 of Part 5 of Division 104 of, the Health and Safety Code, relating to medical marijuana, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 643, as amended, McGuire. Medical marijuana.

(1) Existing law, the Compassionate Use Act of 1996, an initiative measure enacted by the approval of Proposition 215 at the November 6, 1996, statewide general election, authorizes the use of marijuana for medical purposes. Existing law enacted by the Legislature requires the establishment of a program for the issuance of identification cards to qualified patients so that they may lawfully use marijuana for medical purposes, and requires the establishment of guidelines for the lawful cultivation of marijuana grown for medical use. Existing law provides for the licensure of various professions by the Department of Consumer Affairs. Existing law, the Sherman Food, Drug, and Cosmetic Law, provides for the regulation of food, drugs, devices, and cosmetics, as specified. A violation of that law is a crime.

This bill would establish within the Department of Consumer Affairs a Bureau of Medical Marijuana Regulation, under the supervision and control of the Chief of the Bureau of Medical Marijuana Regulation, and would require the bureau to license and regulate dispensing facilities, cultivation sites, transporters, and manufacturers of medical marijuana and medical marijuana products, subject to local ordinances. The bill would require a background check of applicants for licensure, as defined, to be administered by the Department of Justice, and submission of a statement signed by an applicant, under penalty of perjury, that the information on his or her application is true, thereby creating a crime and imposing a state-mandated local program. Violation of the provisions related to applying for a conditional license would be punishable by a civil fine of up to \$35,000 for each individual violation, or as otherwise specified.

The bill would make conditional licenses subject to the restrictions of the local jurisdiction in which the facility operates or proposes to operate. The bill would authorize a facility or entity that is operating in conformance with local zoning ordinances and other state and local requirements on January 1, 2016, to continue its operations until its application for conditional licensure is approved or denied. The bill would set forth provisions related to the transportation, testing, and distribution of medical marijuana. The bill would prohibit the distribution of any form of advertising for physician recommendations for medical marijuana, unless the advertisement bears a specified notice and requires that the advertisement meet specified requirements and not be fraudulent, deceitful, or misleading.

The bill would establish the Medical Marijuana Regulation Fund and would require the deposit of specified fees collected pursuant to this act into the fund. The bill would continuously appropriate moneys from the fund to the bureau for the purposes of administering this act, thereby making an appropriation. The bill would also establish the Special Account for Environmental Enforcement within the Medical Marijuana Fund. This account would contain money from fees assessed against licensed cultivation sites and would be continuously appropriated for the enforcement of environmental regulations relating to licensed cultivation sites. The bill would require the deposit of penalty moneys collected pursuant to this bill into the General Fund.

The bill would ban cultivation sites in areas zoned residential and would require, among other things, that all marijuana grown, produced, distributed, and sold in the state meet the certified organic standards by

January 1, 2022, and that the bureau establish “appellations of origin” for marijuana grown in the state.

The bill would provide that it shall not supersede provisions of Measure D, as approved by the voters of the City of Los Angeles, or other similar measures, as specified.

The bill would authorize a city, county, or city and county to administer and enforce these provisions. The bill would require the bureau to establish quality assurance protocols by January 1, 2018, to ensure uniform testing standards of medical marijuana, and would require licensees to comply with these provisions. The bill would further set forth provisions regulating edible medical marijuana products, as specified. By adding these provisions to the Sherman Food, Drug, and Cosmetic Law, a violation of which is a crime, the bill would impose a state-mandated local program.

(2) Existing law, the Medical Practice Act, provides for the licensure and regulation of physicians and surgeons by the Medical Board of California. Existing law requires the board to prioritize investigations and prosecutions of physicians and surgeons representing the greatest threat of harm, as specified. Existing law identifies the cases that are to be given priority, which include cases of repeated acts of excessively prescribing, furnishing, or administering controlled substances without a good faith prior examination of the patient. Existing law provides that a violation of the Medical Practice Act is a crime.

This bill would require the board to consult with the Center for Medicinal Cannabis Research on developing and adopting medical guidelines for the appropriate administration and use of marijuana.

The bill would also make it a misdemeanor for a physician and surgeon who recommends marijuana to a patient for a medical purpose to accept, solicit, or offer any remuneration from or to a licensed dispensing facility in which the physician and surgeon or his or her immediate family has a financial interest. By creating a new crime, the bill would impose a state-mandated local program.

The bill would provide that specified acts of recommending marijuana for medical purposes without a good faith examination are among the types of cases that should be given priority for investigation and prosecution by the board, as described above. The bill would further prohibit a physician and surgeon from recommending medical marijuana to a patient unless that person is the patient’s attending physician, as defined. Because a violation of that provision would be a crime, the bill would impose a state-mandated local program.

(3) Existing law authorizes the legislative body of a city or county to impose various taxes, including a transactions and use tax at a rate of 0.25%, or a multiple thereof, if approved by the required vote of the legislative body and the required vote of qualified voters, and limits the combined rate of transactions and use taxes within a city or county to 2%.

This bill would authorize ~~the board of supervisors of a county or the city council of a city~~ *a city, county, or city and county, by ordinance*, to impose a tax on the privilege of cultivating, dispensing, producing, processing, preparing, storing, providing, donating, selling, or distributing marijuana ~~or products containing marijuana by an entity issued a conditional license~~. The bill would authorize the tax to be imposed for either general or specific governmental purposes. The bill would require a tax imposed pursuant to this authority to be subject to any applicable voter approval requirement.

(4) Existing law exempts qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients and persons with identification cards from certain crimes, including possession of concentrated cannabis and marijuana, cultivation of marijuana, and possession of marijuana for sale.

This bill would also exempt from those crimes an employee, officer, or board member of a licensed cultivation site or a licensed dispensing facility, except as specified.

(5) Existing law imposes sales and use taxes, as specified, to be collected by the State Board of Equalization.

This bill would require the State Board of Equalization, on or before July 1, 2016, to compile a report that includes the actual tax collected on the sale of medical marijuana, using the most current data available, and the expected tax revenues, under the existing tax structure, for the years 2016 to 2021, inclusive, and to submit that report to the Legislature and Governor's Office.

(6) This bill would provide that its provisions are severable.

(7) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: yes. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. This act shall be known, and may be cited, as the  
2 Medical Marijuana Public Safety and Environmental Protection  
3 Act.

4 SEC. 2. The Legislature finds and declares all of the following:

5 (a) In 1996, the people of the State of California enacted the  
6 Compassionate Use Act of 1996, codified in Section 11362.5 of  
7 the Health and Safety Code. The people of the State of California  
8 declared that their purpose in enacting the measure was, among  
9 other things, “to ensure that seriously ill Californians have the  
10 right to obtain and use marijuana for medical purposes where that  
11 medical use is deemed appropriate and has been recommended by  
12 a physician who has determined that the person’s health would  
13 benefit from the use of marijuana in the treatment of cancer,  
14 anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis,  
15 migraine, or any other illness for which marijuana provides relief.”

16 (b) The Compassionate Use Act of 1996 called on state  
17 government to implement a plan for the safe and affordable  
18 distribution of marijuana to all patients in medical need of  
19 marijuana, while ensuring that nothing in that act would be  
20 construed to condone the diversion of marijuana for nonmedical  
21 purposes.

22 (c) In 2003, the Legislature enacted the Medical Marijuana  
23 Program Act (MMPA), codified in Article 2.5 (commencing with  
24 Section 11362.7) of Chapter 6 of Division 10 of the Health and  
25 Safety Code.

26 (d) Greater certainty and minimum statewide standards are  
27 urgently needed regarding the obligations of medical marijuana  
28 facilities, and for the imposition and enforcement of regulations  
29 to prevent unlawful cultivation and the diversion of marijuana to  
30 nonmedical use.

1 (e) Despite the passage of the Compassionate Use Act of 1996  
2 and the MMPA, because of the lack of an effective statewide  
3 system for regulating and controlling medical marijuana, cities,  
4 counties, and local law enforcement officials have been confronted  
5 with uncertainty about the legality of some medical marijuana  
6 cultivation and distribution activities. The current state of affairs  
7 makes law enforcement difficult and endangers patient safety  
8 because of an inability to monitor the supply of medical marijuana  
9 in the state and the lack of quality control, testing, and labeling  
10 requirements.

11 (f) The California Constitution grants cities and counties the  
12 authority to make and enforce, within their borders, “all local  
13 police, sanitary, and other ordinances and regulations not in conflict  
14 with the general laws.” This inherent local police power includes  
15 broad authority to determine, for purposes of public health, safety,  
16 and welfare, the appropriate uses of land within the local  
17 jurisdiction’s borders. The police power, therefore, allows each  
18 city and county to determine whether or not a medical marijuana  
19 dispensary or other facility that makes medical marijuana available  
20 may operate within its borders. This authority has been upheld by  
21 *City of Riverside v. Inland Empire Patients Health and Wellness*  
22 *Center, Inc.* (2013) 56 Cal.4th 729 and *County of Los Angeles v.*  
23 *Hill* (2011) 192 Cal.App.4th 861. Nothing in this act shall diminish,  
24 erode, or modify that authority.

25 (g) If a city or county determines that a dispensary or other  
26 facility that makes medical marijuana available may operate within  
27 its borders, then there is a need for the state to license these  
28 dispensaries and other facilities for the purpose of adopting and  
29 enforcing protocols for security standards at dispensaries and in  
30 the transportation of medical marijuana, as well as health and safety  
31 standards to ensure patient safety. This licensing requirement is  
32 not intended in any way nor shall it be construed to preempt local  
33 ordinances, regulations, or enforcement actions regarding the sale  
34 and use of medical marijuana, including, but not limited to,  
35 security, signage, lighting, and inspections.

36 (h) Greater oversight, uniformity, and enforcement are urgently  
37 needed regarding the obligations and rights of medical marijuana  
38 cultivators, transporters, and distribution facilities.

1 (i) Marijuana has widely accepted medical applications that  
2 make it inappropriate to be classified as a Schedule I controlled  
3 substance in the State of California.

4 (j) For the protection of Californians, the state must act to  
5 regulate and control medical marijuana and not preempt local  
6 government ordinances. Cities and counties should be allowed to  
7 impose local taxes and enact zoning regulations and other  
8 restrictions applicable to the cultivation, transportation, and  
9 distribution of medical marijuana based on local needs.

10 (k) For the protection of California's environment and its natural  
11 resources, all efforts must be made to prevent and mitigate the  
12 harmful environmental impacts that can be associated with some  
13 marijuana cultivation.

14 (l) The North Coast Regional Water Quality Control Board is  
15 currently in the process of promulgating regulations that would  
16 create a 3-tiered system for cultivator wastewater discharge permits.  
17 A similar permitting system would assist the state in controlling  
18 damaging wastewater runoff from cultivation sites, while  
19 minimizing the burden on smaller cultivators.

20 (m) Nothing in this act shall have a diminishing effect on the  
21 rights and protections granted to a patient or primary caregiver  
22 pursuant to the Compassionate Use Act of 1996.

23 (n) Nothing in this act shall be construed to promote or facilitate  
24 the nonmedical, recreational possession, sale, or use of marijuana.

25 SEC. 3. Section 2220.05 of the Business and Professions Code  
26 is amended to read:

27 2220.05. (a) In order to ensure that its resources are maximized  
28 for the protection of the public, the Medical Board of California  
29 shall prioritize its investigative and prosecutorial resources to  
30 ensure that physicians and surgeons representing the greatest threat  
31 of harm are identified and disciplined expeditiously. Cases  
32 involving any of the following allegations shall be handled on a  
33 priority basis, as follows, with the highest priority being given to  
34 cases in the first paragraph:

35 (1) Gross negligence, incompetence, or repeated negligent acts  
36 that involve death or serious bodily injury to one or more patients,  
37 such that the physician and surgeon represents a danger to the  
38 public.

39 (2) Drug or alcohol abuse by a physician and surgeon involving  
40 death or serious bodily injury to a patient.

(3) Repeated acts of clearly excessive prescribing, furnishing, or administering of controlled substances, or repeated acts of prescribing, dispensing, or furnishing of controlled substances, or recommending marijuana to patients for medical purposes, without a good faith prior examination of the patient and medical reason therefor. However, in no event shall a physician and surgeon prescribing, furnishing, or administering controlled substances for intractable pain consistent with lawful prescribing, including, but not limited to, Sections 725, 2241.5, and 2241.6 of this code and Sections 11159.2 and 124961 of the Health and Safety Code, be prosecuted for excessive prescribing and prompt review of the applicability of these provisions shall be made in any complaint that may implicate these provisions.

(4) Sexual misconduct with one or more patients during a course of treatment or an examination.

(5) Practicing medicine while under the influence of drugs or alcohol.

(b) The board may by regulation prioritize cases involving an allegation of conduct that is not described in subdivision (a). Those cases prioritized by regulation shall not be assigned a priority equal to or higher than the priorities established in subdivision (a).

(c) The Medical Board of California shall indicate in its annual report mandated by Section 2312 the number of temporary restraining orders, interim suspension orders, and disciplinary actions that are taken in each priority category specified in subdivisions (a) and (b).

SEC. 4. Article 25 (commencing with Section 2525) is added to Chapter 5 of Division 2 of the Business and Professions Code, to read:

#### Article 25. Recommending Medical Marijuana

2525. (a) It is unlawful for a physician and surgeon who recommends marijuana to a patient for a medical purpose to accept, solicit, or offer any form of remuneration from or to a facility issued a conditional license pursuant to Part 5 (commencing with Section 18100) of Division 7, if the physician and surgeon or his or her immediate family have a financial interest in that facility.

(b) For the purposes of this section, “financial interest” shall have the same meaning as in Section 650.01.



1 (c) A violation of this section shall be a misdemeanor.

2 2525.1. The Medical Board of California shall consult with  
3 the California Marijuana Research Program, known as the Center  
4 for Medicinal Cannabis Research, authorized pursuant to Section  
5 11362.9 of the Health and Safety Code, on developing and adopting  
6 medical guidelines for the appropriate administration and use of  
7 medical marijuana.

8 2525.2. A physician and surgeon shall not recommend medical  
9 marijuana to a patient, unless that person is the patient's attending  
10 physician, as defined by subdivision (a) of Section 11362.7 of the  
11 Health and Safety Code.

12 SEC. 5. Part 5 (commencing with Section 18100) is added to  
13 Division 7 of the Business and Professions Code, to read:

14  
15 PART 5. MEDICAL MARIJUANA

16  
17 CHAPTER 1. GENERAL PROVISIONS

18  
19 18100. For purposes of this part, the following definitions shall  
20 apply:

21 (a) "Bureau" means the Bureau of Medical Marijuana Regulation  
22 in the Department of Consumer Affairs.

23 (b) "Certified testing laboratory" means a laboratory that is  
24 certified by the bureau to perform random sample testing of  
25 medical marijuana pursuant to the certification standards for these  
26 facilities promulgated by the bureau.

27 (c) "Chief" means the Chief of the Bureau of Medical Marijuana  
28 Regulation.

29 (d) "Department" means the Department of Consumer Affairs.

30 (e) "Director" means the Director of Consumer Affairs.

31 (f) "Dispensary" means a distribution operation that provides  
32 medical marijuana or medical marijuana derived products to  
33 patients and caregivers.

34 (g) "Fund" means the Medical Marijuana Regulation Fund  
35 established pursuant to Section 18118.

36 (h) "Licensed cultivation site" means a facility that plants,  
37 grows, cultivates, harvests, dries, or processes medical marijuana  
38 and that is issued a conditional license pursuant to this part.

39 (i) "Licensed dispensing facility" means a dispensary or other  
40 facility that provides medical marijuana, medical marijuana

1 products, or devices for the use of medical marijuana or medical  
2 marijuana products that is issued a conditional license pursuant to  
3 this part.

4 (j) “Licensed manufacturer” means a person who extracts,  
5 prepares, derives, produces, compounds, or repackages medical  
6 marijuana or medical marijuana products into consumable and  
7 nonconsumable forms and that is issued a conditional license  
8 pursuant to this part.

9 (k) “Licensed transporter” means an individual or entity issued  
10 a conditional license by the bureau to transport medical marijuana  
11 to and from facilities that have been issued conditional licenses  
12 pursuant to this part.

13 (l) “Marijuana” means all parts of the plant *Cannabis sativa*,  
14 *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not;  
15 the seeds thereof; the resin, whether crude or purified, extracted  
16 from any part of the plant; and every compound, manufacture, salt,  
17 derivative, mixture, or preparation of the plant, its seeds, or resin.  
18 “Marijuana” does not include the mature stalks of the plant, fiber  
19 produced from the stalks, oil or cake made from the seeds of the  
20 plant, any other compound, manufacture, salt, derivative, mixture,  
21 or preparation of the mature stalks (except the resin extracted  
22 therefrom), fiber, oil, or cake, or the sterilized seed of the plant  
23 which is incapable of germination. “Marijuana” also means  
24 marijuana, as defined by Section 11018 of the Health and Safety  
25 Code.

26 (m) “Trespass grows” means illicit marijuana cultivation on  
27 public or private land without the explicit permission of the  
28 landowner.

29 18101. (a) There is hereby created in the Department of  
30 Consumer Affairs the Bureau of Medical Marijuana Regulation,  
31 under the supervision and control of the Chief of the Bureau of  
32 Medical Marijuana Regulation.

33 (b) Protection of the public shall be the highest priority for the  
34 bureau in exercising its licensing, regulatory, and disciplinary  
35 functions. Whenever the protection of the public is inconsistent  
36 with other interests sought to be promoted, the protection of the  
37 public shall be paramount.

38 (c) The bureau shall have the authority to issue, suspend, or  
39 revoke conditional licenses for the cultivation, manufacture,  
40 transportation, storage, distribution, and sale of medical marijuana

1 within the state and to collect fees in connection with these actions.  
2 The bureau shall have the authority to create, issue, suspend, or  
3 revoke other licenses in order to protect patient health and the  
4 public and to facilitate the regulation of medical marijuana.

5 (d) The Governor shall appoint the chief at a salary to be fixed  
6 and determined by the director with the approval of the Director  
7 of Finance. The chief shall serve in accordance with the State Civil  
8 Service Act (Part 2 (commencing with Section 18500) of Division  
9 5 of Title 2 of the Government Code).

10 (e) The duty of enforcing and administering this part shall be  
11 vested in the chief, who is responsible to the director. The chief  
12 may adopt and enforce those rules and regulations that he or she  
13 determines are reasonably necessary to carry out the purposes of  
14 this part and declaring the policy of the bureau, including a system  
15 for the issuance of citations for violations of this part, as specified  
16 in Section ~~18126~~. *18127*.

17 (f) The chief, as necessary to carry out the provisions of this  
18 part, and in accordance with the State Civil Service Act (Part 2  
19 (commencing with Section 18500) of Division 5 of Title 2 of the  
20 Government Code), may appoint and fix the compensation of  
21 personnel, including, but not limited to, clerical, inspection,  
22 investigation, and auditing personnel, as well as an assistant chief.  
23 These personnel shall perform their respective duties under the  
24 supervision and the direction of the chief.

25 (g) Every power granted to, or duty imposed upon, the chief  
26 under this part may be exercised or performed in the name of the  
27 chief by a deputy or assistant chief, subject to conditions and  
28 limitations that the chief prescribes.

29 (h) The bureau shall exercise its authority pursuant to this part  
30 consistent with Section 1 of the act that added this section and  
31 consistent with the provisions of this part.

32 18102. Funds for the establishment and support of the bureau  
33 shall be advanced as a loan by the department and shall be repaid  
34 by the initial proceeds from fees collected pursuant to this part or  
35 any rule or regulation adopted pursuant to this part.

36 18103. The bureau shall have the authority necessary for the  
37 implementation of this part, including, but not limited to, all of  
38 the following:

39 (a) Establishing rules or regulations necessary to carry out the  
40 purposes and intent of this part and to enable the bureau to exercise

1 the powers and perform the duties conferred upon it by this part  
2 and in accordance with Chapter 3.5 (commencing with Section  
3 11340) of Part 1 of Division 3 of Title 2 of the Government Code.  
4 For the performance of its duties, the bureau has the powers as set  
5 forth in Article 2 (commencing with Section 11180) of Chapter 2  
6 of Part 1 of Division 3 of Title 2 of the Government Code.

7 (b) Issuing conditional licenses to persons for the cultivation,  
8 manufacture, transportation, storage, distribution, and sale of  
9 medical marijuana within the state.

10 (c) Setting application, licensing, and renewal fees for  
11 conditional licenses issued pursuant to Section 18117.

12 (d) Establishing standards for the cultivation, manufacturing,  
13 transportation, storage, distribution, provision, donation, and sale  
14 of medical marijuana and medical marijuana products.

15 (e) Establishing procedures for the issuance, renewal,  
16 suspension, denial, and revocation of conditional licenses.

17 (f) Imposing a penalty authorized by this part or any rule or  
18 regulation adopted pursuant to this part.

19 (g) Taking action with respect to an application for a conditional  
20 license in accordance with procedures established pursuant to this  
21 part.

22 (h) Overseeing the operation of the Medical Marijuana  
23 Regulation Fund and the Special Account for Environmental  
24 Enforcement, established pursuant to Section 18118.

25 (i) Consulting with other state or local agencies, departments,  
26 representatives of the medical marijuana community, or public or  
27 private entities for the purposes of establishing statewide standards  
28 and regulations.

29 (j) Certifying laboratories to perform testing of medical  
30 marijuana.

31 18104. (a) On or before January 1, 2018, the bureau shall  
32 promulgate regulations for implementation and enforcement of  
33 this part, including, but not limited to, all of the following:

34 (1) Procedures for the issuance, renewal, suspension, denial,  
35 and revocation of conditional licenses.

36 (2) Procedures for appeal of fines and the appeal of denial,  
37 suspension, or revocation of conditional licenses.

38 (3) Application, licensing, and renewal forms and fees.

39 (4) A time period in which the bureau shall approve or deny an  
40 application for a conditional license pursuant to this part.

1 (5) Qualifications for licensees.

2 (6) Standards for certification of testing laboratories to perform  
3 random sample testing of all medical marijuana products, including  
4 standards for onsite testing.

5 (A) Certification of testing laboratories shall be consistent with  
6 general requirements for the competence of testing and calibration  
7 activities, including sampling, using standard methods established  
8 by the International Organization for Standardization, specifically  
9 ISO/IEC 17025.

10 (B) These requirements shall apply to all entities, including  
11 third-party laboratories, engaged in the testing of medical marijuana  
12 pursuant to this part.

13 (7) Requirements to ensure conformance with standards  
14 analogous to state statutory environmental, agricultural, consumer  
15 protection, and food and product safety requirements. At a  
16 minimum, these standards shall do all of the following:

17 (A) Prescribe sanitation standards analogous to the California  
18 Retail Food Code (Part 7 (commencing with Section 113700) of  
19 Division 104 of the Health and Safety Code) for food preparation,  
20 storage, handling, and sale of edible medical marijuana products.

21 (B) Require that edible medical marijuana products produced,  
22 distributed, provided, donated, or sold by licensees shall be limited  
23 to nonpotentially hazardous food, as established by the State  
24 Department of Public Health pursuant to Section 114365.5.

25 (C) Require that facilities in which edible medical marijuana  
26 products are prepared shall be constructed in accordance with  
27 applicable building standards, health and safety standards, and  
28 other state laws.

29 (D) Provide that weighing or measuring devices used in  
30 connection with the sale or distribution of medical marijuana are  
31 required to meet standards analogous to Division 5 (commencing  
32 with Section 12001).

33 (E) Require that the application of pesticides or other pest  
34 control in connection with the indoor or outdoor cultivation of  
35 medical marijuana shall meet standards analogous to Division 6  
36 (commencing with Section 11401) of the Food and Agricultural  
37 Code and its implementing regulations.

38 (b) On or before July 1, 2017, the bureau shall also promulgate  
39 regulations for minimum statewide health and safety standards  
40 and quality assurance standards associated with the cultivation,

1 transport, storage, manufacture, and sale of all medical marijuana  
2 produced in this state. Consistent with Section 18126, local  
3 agencies shall have primary responsibility for enforcement of these  
4 standards in accordance with bureau regulations.

5 (c) The bureau, in consultation with the Division of Labor  
6 Standards Enforcement, shall adopt regulations establishing worker  
7 safety standards for entities licensed pursuant to this part.

8 (d) The bureau, in consultation with the State Water Resources  
9 Control Board, shall adopt regulations to ensure that commercial  
10 medical marijuana activity licensed pursuant to this part does not  
11 threaten the state's environment and watersheds and is otherwise  
12 in conformance with the California Environmental Quality Act.

13 (e) The bureau shall not issue a conditional license unless the  
14 applicant has met all of the requirements of this part, including the  
15 requirements of ~~paragraph (4)~~ of subdivision (d) of Section 18110.

16 18105. The chief shall keep a complete record of all facilities  
17 issued a conditional license. This record shall be made available  
18 on the bureau's Internet Web site.

19 18106. The bureau shall establish procedures to provide state  
20 and local law enforcement, upon their request, with 24-hour access  
21 to information to verify a conditional license, track transportation  
22 manifests, and track the inventories of facilities issued a conditional  
23 license.

24 18107. This part shall in no way supersede the provisions of  
25 Measure D, approved by the voters of the City of Los Angeles on  
26 the May 21, 2013, ballot for the city, or any similar measure in  
27 other jurisdictions, which grants medical marijuana businesses and  
28 dispensaries qualified immunity consistent with the terms of the  
29 measure and local ordinances. Notwithstanding the provisions of  
30 this part, marijuana businesses and dispensaries subject to the  
31 provisions of Measure D or other similar qualified immunity shall  
32 continue to be subject to the ordinances and regulations of the  
33 relevant local jurisdiction.

## 34 CHAPTER 2. CONDITIONAL LICENSES

35  
36  
37 18108. The following persons are exempt from the requirement  
38 of licensure under this part:

39 (a) A patient who cultivates, possesses, stores, manufactures,  
40 or transports marijuana exclusively for his or her personal medical

1 use and who does not sell, distribute, donate, or provide marijuana  
2 to any other person or entity.

3 (b) A primary caregiver who cultivates, possesses, stores,  
4 manufactures, transports, or provides marijuana exclusively for  
5 the personal medical purposes to no more than five specified  
6 qualified patients for whom he or she is the primary caregiver  
7 within the meaning of Section 11362.7 of the Health and Safety  
8 Code and who does not receive remuneration for these activities,  
9 except for compensation in full compliance with subdivision (c)  
10 of Section 11362.765 of the Health and Safety Code. Nothing in  
11 this section shall permit primary caregivers to organize themselves  
12 as cooperatives or collectives of caregivers.

13 18109. (a) Except as provided in Section 11362.5 of, and  
14 Article 2.5 (commencing with Section 11362.7) of Chapter 6 of  
15 Division 10 of, the Health and Safety Code, a person shall not sell  
16 or provide medical marijuana to a patient or caregiver other than  
17 at a licensed dispensing facility or through delivery from a licensed  
18 dispensing facility.

19 (b) Except as provided in Section 11362.5 of, and Article 2.5  
20 (commencing with Section 11362.7) of Chapter 6 of Division 10  
21 of, the Health and Safety Code, a person shall not grow medical  
22 marijuana other than at a licensed cultivation site.

23 (c) Except as provided in Section 11362.5 of, and Article 2.5  
24 (commencing with Section 11362.7) of Chapter 6 of Division 10  
25 of, the Health and Safety Code, a person shall not manufacture  
26 medical marijuana or medical marijuana products other than a  
27 licensed manufacturer.

28 (d) A person shall not transport medical marijuana from one  
29 facility issued a conditional license to another, other than a licensed  
30 transporter.

31 (e) A licensed manufacturer may obtain medical marijuana from  
32 a licensed cultivator and may furnish medical marijuana products  
33 to a licensed dispensary.

34 (f) To meet the requirements of Article 8 (commencing with  
35 Section 111658) of Chapter 6 of Part 5 of Division 104 of the  
36 Health and Safety Code, medical marijuana and medical marijuana  
37 products shall be tested by a certified testing laboratory.

38 18110. (a) Beginning no later than July 1, 2018, the bureau  
39 shall provide for and shall issue conditional licenses. Conditional  
40 licenses shall be issued for all activity authorized under this

1 chapter, including, but not limited to, cultivation, processing,  
2 storage, transport, and dispensing of medical marijuana.

3 (b) The issuance of a conditional license shall not, in and of  
4 itself, authorize the recipient to begin business operations. The  
5 conditional license shall certify, at a minimum, that the applicant  
6 has paid the state conditional licensing fee, successfully passed a  
7 criminal background check, and met the state residency  
8 requirements.

9 (c) In order to begin business operations pursuant to this chapter,  
10 an applicant shall, in addition to the conditional license, obtain a  
11 license or permit from the local jurisdiction in which he or she  
12 proposes to operate, following the requirements of the applicable  
13 local ordinances.

14 (d) An applicant for a conditional license shall do all following:

15 (1) Pay the fee or fees required by this part for each license  
16 being applied for.

17 (2) Register with the bureau on forms prescribed by the chief.  
18 The forms shall contain sufficient information to identify the  
19 licensee, including all of the following:

20 (A) Name of the owner or owners of a proposed facility,  
21 including all persons or entities having an ownership interest other  
22 than a security interest, lien, or encumbrance on property that will  
23 be used by the applicant.

24 (B) The name, address, and date of birth of each principal officer  
25 and board member.

26 (C) The address and telephone number of the proposed facility.

27 (D) In the case of a cultivation site, the GPS coordinates of the  
28 site.

29 (3) Describe, in writing, the scope of business of the proposed  
30 facility.

31 (4) Provide evidence that the applicant and owner have been  
32 legal full-time residents of the state for not less than 12 months.

33 (5) Provide detailed operating procedures, in writing, for the  
34 proposed facility, which shall include, but not be limited to,  
35 procedures for facility and operational security, prevention of  
36 diversion, employee screening, storage of medical marijuana,  
37 personnel policies, and recordkeeping procedures.

38 (6) Provide evidence that the applicant has received all required  
39 environmental permits, including compliance with the California  
40 Environmental Quality Act, and wastewater discharge permits.



1 (7) Provide the applicant's fingerprint images. For purposes of  
2 this paragraph, "applicant" means the owner or owners of a  
3 proposed facility, including all persons or entities having an  
4 ownership interest other than a security interest, lien, or  
5 encumbrance on property that will be used by the facility.

6 (A) The applicant shall electronically submit to the Department  
7 of Justice fingerprint images and related information required by  
8 the Department of Justice for the purpose of obtaining information  
9 as to the existence and content of a record of state or federal  
10 convictions and arrests, and information as to the existence and  
11 content of a record of state or federal convictions and arrests for  
12 which the Department of Justice establishes that the person is free  
13 on bail, or on his or her own recognizance, pending trial or appeal.

14 (B) The Department of Justice shall provide a response to the  
15 bureau pursuant to paragraph (1) of subdivision (p) of Section  
16 11105 of the Penal Code.

17 (C) The bureau shall request from the Department of Justice  
18 subsequent notification service, as provided pursuant to Section  
19 11105.2 of the Penal Code, for persons described in subparagraph  
20 (A).

21 (D) The Department of Justice shall charge the applicant a fee  
22 sufficient to cover the reasonable cost of processing the requests  
23 described in this paragraph.

24 (8) Provide a statement, signed by the applicant under penalty  
25 of perjury, that the information provided is true.

26 (9) Provide any other information required by the bureau.

27 (e) Each location and each discrete use of a single location shall  
28 require a conditional license. Each application for a conditional  
29 license is separate and distinct, and the bureau may charge a  
30 separate fee for each.

31 (f) A conditional license issued pursuant to this section shall be  
32 valid for 12 months after the date of issuance. After the initial  
33 12-month period, a conditional license may be renewed for a period  
34 of 36 months. The bureau shall establish procedures for the renewal  
35 of a conditional license.

36 (g) Notwithstanding any other law, the bureau shall not issue a  
37 conditional license to an individual or entity, or for a premise,  
38 against whom there is a pending state or local administrative or  
39 judicial proceeding, against whom there is an action initiated by

1 a city, county, or city and county under a local ordinance, or who  
2 has been determined to have violated an applicable local ordinance.

3 (h) A facility or entity that is operating in conformance with  
4 local zoning ordinances and other state and local requirements on  
5 January 1, 2016, may continue its operations until its application  
6 for conditional licensure is approved or denied pursuant to this  
7 part.

8 18111. (a) Upon receipt of the application materials and fee  
9 required in Section 18110, the bureau, provided the applicant has  
10 not committed an act or crime constituting grounds for the denial  
11 of licensure under Section 18112, may issue the conditional license  
12 and send a proof of issuance to the applicant.

13 (b) The chief shall, by regulation, prescribe conditions upon  
14 which a person whose conditional license has previously been  
15 denied, suspended, or revoked, may be issued a conditional license.

16 18112. (a) An application for a conditional license shall be  
17 denied and a conditional license shall be suspended or revoked for  
18 a past felony conviction for the possession for sale, sale,  
19 manufacture, transportation, or cultivation of a controlled  
20 substance, a felony criminal conviction for drug trafficking, a  
21 felony conviction for embezzlement, a felony conviction involving  
22 fraud or deceit, or any violent or serious felony conviction pursuant  
23 to subdivision (c) of Section 667.5 of, or subdivision (c) of Section  
24 1192.7 of, the Penal Code. The bureau, at its discretion, may issue  
25 a license to an applicant that would be otherwise denied pursuant  
26 to this subdivision if the applicant has obtained a certificate of  
27 rehabilitation, pursuant to Section 4852.13 of the Penal Code.

28 (b) The chief, upon his or her determination, may deny, suspend,  
29 or revoke a conditional license when a conditional licensee,  
30 applicant, or employee, partner, officer, or member of an entity  
31 conditionally licensed does any of the following:

32 (1) Making or authorizing in any manner or by any means a  
33 written or oral statement that is untrue or misleading and that is  
34 known, or that by exercise of reasonable care should be known,  
35 to be untrue or misleading.

36 (2) Any other conduct that constitutes fraud.

37 (3) Conduct constituting gross negligence.

38 (4) Failure to comply with the provisions of this part, Article 8  
39 (commencing with Section 111658) of Chapter 6 of Part 5 of

1 Division 104 of the Health and Safety Code, or any rule or  
2 regulation adopted pursuant to this part.

3 (5) Conduct that constitutes grounds for denial of licensure  
4 pursuant to Chapter 2 (commencing with Section 480) of Division  
5 1.5.

6 18113. (a) Upon denying, suspending, or revoking a  
7 conditional license, the chief shall notify the applicant or licensee,  
8 in writing, by personal service or mail addressed to the address of  
9 the applicant or licensee set forth in the application. The applicant  
10 or licensee shall be given a hearing within 30 days thereafter if he  
11 or she files with the bureau a written request for hearing. Otherwise,  
12 the denial, suspension, or revocation is deemed affirmed.

13 (b) All proceedings to deny, suspend, or revoke a conditional  
14 license shall be conducted pursuant to Chapter 5 (commencing  
15 with Section 11500) of Part 1 of Division 3 of Title 2 of the  
16 Government Code.

17 18114. An application for or renewal of a conditional license  
18 shall not be approved if the bureau determines any of the following:

19 (a) The applicant fails to meet the requirements of this part or  
20 any regulation adopted pursuant to this part or any applicable city,  
21 county, or city and county ordinance or regulation. If a local  
22 government adopts an ordinance or resolution authorizing medical  
23 marijuana to be cultivated, manufactured, stored, distributed, or  
24 sold within its jurisdiction, it shall submit to the bureau  
25 documentation detailing their renewal requirements.

26 (b) The applicant, or any of its officers, directors, owners,  
27 members, or shareholders, is a minor.

28 (c) The applicant has knowingly answered a question or request  
29 for information falsely on the application form or failed to provide  
30 information requested.

31 (d) The applicant, or any of its officers, directors, owners,  
32 members, or shareholders has been sanctioned by the bureau, a  
33 city, county, or city and county, for medical marijuana activities  
34 conducted in violation of this part or any applicable local ordinance  
35 or has had a license revoked in the previous five years.

36 (e) The proposed cultivation, processing, possession, storage,  
37 manufacturing, testing, transporting, distribution, provision, or  
38 sale of medical marijuana will violate any applicable local law or  
39 ordinance.

(f) The applicant or the owner is unable to establish that he or she has been a resident of the state for not less than 12 months.

18115. (a) In addition to the provisions of this part, a conditional license shall be subject to the restrictions of the local jurisdiction in which the facility operates or proposes to operate. Even if a conditional license has been granted pursuant to this part, a facility shall not operate in a local jurisdiction that prohibits the establishment of that type of business.

(b) In addition to the provisions of this part, local jurisdictions retain the power to assess fees and taxes, as applicable, on facilities that are conditionally licensed pursuant to this part and the business activities of those licensees.

18116. The bureau may adopt regulations to limit the number of conditional licenses issued pursuant to this part upon a finding that the otherwise unrestricted issuance of conditional licenses is dangerous to the public health and safety.

### CHAPTER 3. FEES

18117. (a) The conditional licensing fee shall be established by the bureau at a level sufficient to fund the reasonable costs of all of the following:

(1) Administrative costs incurred by the bureau in overseeing the conditional licensing program, establishing health and safety standards, and certifying the required testing laboratories.

(2) Costs incurred by the bureau or the Department of Justice for enforcement of the provisions of this part.

(3) Costs incurred by law enforcement and other public safety entities for enforcing the provisions of this part in their jurisdiction.

(b) In addition to the conditional licensing fee required pursuant to subdivision (a), a cultivation facility shall be assessed a fee in a sufficient amount to cover the reasonable regulatory costs of enforcing the environmental impact provisions relating to those cultivation facilities. This fee shall be distributed, as necessary and in proportion to its regulatory function, between the following agencies responsible for enforcing the regulations relating to the environmental impact of licensed cultivation sites:

(1) The State Water *Resources Control* Board.

(2) The Department of Fish and Wildlife.

(3) The Department of Forestry and Fire Protection.

1 (4) The Department of Pesticide Regulation.

2 (5) The Department of Food and Agriculture.

3 (6) Local law enforcement.

4 18118. (a) The Medical Marijuana Regulation Fund is hereby  
5 established within the State Treasury. Notwithstanding Section  
6 16305.7 of the Government Code, the fund shall include any  
7 interest and dividends earned on the money in the fund.

8 (b) Except as provided in subdivision (c), all fees collected  
9 pursuant to this part shall be deposited into the Medical Marijuana  
10 Regulation Fund. Notwithstanding Section 13340 of the  
11 Government Code, all moneys within the fund are hereby  
12 continuously appropriated, without regard to fiscal year, to the  
13 bureau solely for the purposes of fully funding and administering  
14 this part, including, but not limited to, the costs incurred by the  
15 bureau for its administrative expenses.

16 (c) The Special Account for Environmental Enforcement is  
17 hereby established as an account within the Medical Marijuana  
18 Regulation Fund. Notwithstanding Section 16305.7 of the  
19 Government Code, the account shall include any interest and  
20 dividends earned on the money in the account. All fees collected  
21 pursuant to subdivision (b) of Section ~~18112~~ 18117 shall be  
22 deposited in this account. Notwithstanding Section 13340 of the  
23 Government Code, all moneys within the fund are hereby  
24 continuously appropriated, without regard to fiscal year, to the  
25 bureau for distribution to the entities listed in subdivision (b) of  
26 Section 18117 to be used to enforce the environmental regulation  
27 of licensed cultivation sites.

28 (d) All moneys collected as a result of penalties imposed under  
29 this part shall be deposited directly into the General Fund, to be  
30 available upon appropriation.

31 (e) The bureau may establish and administer a grant program  
32 to allocate moneys from the Medical Marijuana Regulation Fund  
33 to state and local entities for the purpose of assisting with medical  
34 marijuana regulation and the enforcement of this part and other  
35 state and local laws applicable to licensees.

36 18119. (a) A facility issued a conditional license shall not  
37 acquire, cultivate, process, possess, store, manufacture, distribute,  
38 sell, deliver, transfer, transport, or dispense medical marijuana for  
39 any purpose other than those authorized by Article 2.5

(commencing with Section 11362.7) of Chapter 6 of Division 10 of the Health and Safety Code.

(b) A licensed dispensing facility shall not acquire, cultivate, process, possess, store, manufacture, distribute, sell, deliver, transfer, transport, or dispense medical marijuana plants or medical marijuana products except through a licensed cultivation site or a licensed manufacturer.

#### CHAPTER 4. TRANSPORTATION OF MEDICAL MARIJUANA

18120. (a) A licensed transporter shall ship only to facilities issued a conditional license and only in response to a request for a specific quantity and variety from those facilities.

(b) Prior to transporting medical marijuana products, a licensed transporter shall do both of the following:

(1) Complete a shipping manifest using a form prescribed by the bureau.

(2) Securely transmit a copy of the manifest to the licensee that will receive the medical marijuana product, and to the bureau, prior to transport.

(c) The licensed transporter making the shipment and the licensee receiving the shipment shall maintain each shipping manifest and make it available to local code enforcement officers, any other locally designated enforcement entity, and the bureau upon request.

18121. (a) Transported medical marijuana products shall:

(1) Be transported only in a locked, safe, and secure storage compartment that is securely affixed to the interior of the transporting vehicle.

(2) Not be visible from outside the vehicle.

(b) A vehicle transporting medical marijuana products shall travel directly from one licensed facility to another licensed facility authorized to receive the shipment.

18122. (a) All transport vehicles shall be staffed with a minimum of two employees. At least one transport team member shall remain with the vehicle at all times when the vehicle contains medical marijuana.

(b) Each transport team member shall have access to a secure form of communication by which each member can communicate

1 with personnel at the licensed facility at all times when the vehicle  
2 contains medical marijuana.

3 (c) Each transport team member shall possess documentation  
4 of licensing and a government-issued identification card at all  
5 times when transporting or delivering medical marijuana and shall  
6 produce it to any representative of the bureau or law enforcement  
7 upon request.

8 (d) This part shall not be construed to authorize or permit a  
9 licensee to transport, or cause to be transported, medical marijuana  
10 or medical marijuana products outside the state.

11 18123. A local jurisdiction shall not prevent transportation  
12 through or to a facility issued a conditional license, by a  
13 conditionally licensed transporter who acts in compliance with  
14 this part.

15  
16 CHAPTER 5. ENFORCEMENT  
17

18 18124. A state agency is not required by this section to enforce  
19 a city, county, city and county, or local law, ordinance, rule, or  
20 regulation regarding the site or operation of a facility issued a  
21 conditional license.

22 18125. The bureau may assist state taxation authorities in the  
23 development of uniform policies for the state taxation of licensees.

24 18126. (a) For facilities issued a conditional license that are  
25 located within the incorporated area of a city, the city shall have  
26 full power and authority to enforce this part and Article 8  
27 (commencing with Section 111658) of Chapter 6 of Part 5 of  
28 Division 104 of the Health and Safety Code and the rules,  
29 regulations, and standards promulgated by the bureau. The city  
30 shall further assume complete responsibility for any regulatory  
31 function relating to those licensees within the city limits that would  
32 otherwise be performed by the county or any county officer or  
33 employee, without liability, cost, or expense to the county.

34 (b) For licensed facilities located within the unincorporated area  
35 of a county, the county shall have full power and authority to  
36 enforce this part and Article 8 (commencing with Section 111658)  
37 of Chapter 6 of Part 5 of Division 104 of the Health and Safety  
38 Code and the rules, regulations, and standards promulgated by the  
39 bureau.

1 18127. (a) A willful violation of Section 18110, including an  
2 attempt to falsify information on an application or to otherwise  
3 defraud or mislead a state or local agency in the course of the  
4 application process, shall be punishable by a civil fine of up to  
5 thirty-five thousand dollars (\$35,000) for each individual violation.

6 (b) A technical violation of Section 18110 shall, at the bureau's  
7 discretion, be punishable by a civil fine of up to ten thousand  
8 dollars (\$10,000) for each individual violation.

9 18128. A district attorney, county counsel, city attorney, or  
10 city prosecutor may bring an action to enjoin a violation or the  
11 threatened violation of any provision of this part, including, but  
12 not limited to, a licensee's failure to correct objectionable  
13 conditions following notice or as a result of a rule promulgated  
14 pursuant to this part. The action shall be brought in the county in  
15 which the violation occurred or is threatened to occur. A proceeding  
16 brought pursuant to this part shall conform to the requirements of  
17 Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of  
18 the Code of Civil Procedure. Nothing in this section shall diminish  
19 the authority of a local government to take requisite enforcement  
20 actions pertaining to its own ordinances or regulations.

21 18129. Nothing in this part shall prevent a city or other local  
22 governing body from taking action as specified in Section 11362.83  
23 of the Health and Safety Code.

24 18130. This part shall not be construed to limit a law  
25 enforcement agency's ability to investigate unlawful activity in  
26 relation to a facility issued a conditional license.

## 27 CHAPTER 6. CULTIVATION SITES

28  
29  
30 ~~18131. A licensed cultivation site shall not be located in an~~  
31 ~~area zoned residential.~~

32 18132. (a) The bureau shall notify local law enforcement of  
33 all conditional licenses issues for cultivation sites in that  
34 jurisdiction.

35 (b) A licensed cultivation site shall display the state license in  
36 a manner so as to be available and easily read at the location.

37 (c) The bureau shall work with and assist state and local law  
38 enforcement to eliminate trespass grows in the state.



1 18133. (a) No later than January 1, 2022, all medical marijuana  
2 grown, produced, distributed, and sold in the state shall meet the  
3 certified organic standards.

4 (b) The bureau shall establish appellations of origin for  
5 marijuana grown in California.

6 18134. The bureau shall work with county agricultural  
7 commissioners, offices to provide all the information and forms  
8 required for conditional licensure as a cultivation site in a single  
9 location, including state licensure, local requirements in that  
10 jurisdiction, and environmental requirements.

11  
12 CHAPTER 7. REGULATION OF MEDICAL MARIJUANA  
13

14 18136. (a) A person shall not distribute any form of advertising  
15 for physician recommendations for medical marijuana in California  
16 unless the advertisement bears the following notice to consumers:  
17

18 NOTICE TO CONSUMERS: The Compassionate Use Act of  
19 1996 ensures that seriously ill Californians have the right to obtain  
20 and use marijuana for medical purposes where medical use is  
21 deemed appropriate and has been recommended by a physician  
22 who has determined that the person's health would benefit from  
23 the use of medical marijuana. Physicians are licensed and regulated  
24 by the Medical Board of California and arrive at the decision to  
25 make this recommendation in accordance with accepted standards  
26 of medical responsibility.  
27

28 (b) Advertising for physician recommendations for medical  
29 marijuana shall meet all requirements of Section 651. Price  
30 advertising shall not be fraudulent, deceitful, or misleading,  
31 including statements or advertisements of bait, discounts,  
32 premiums, gifts, or statements of a similar nature.

33 18137. (a) A facility issued a conditional license shall  
34 implement sufficient security measures to both deter and prevent  
35 unauthorized entrance into areas containing marijuana and theft  
36 of marijuana at those facilities. These security measures shall  
37 include, but not be limited to, all of the following:

38 (1) Preventing individuals from remaining on the premises of  
39 the facility if they are not engaging in activity expressly related to  
40 the operations of the facility.

1 (2) Establishing limited access areas accessible only to  
2 authorized facility personnel.

3 (3) Storing all finished marijuana in a secured and locked room,  
4 safe, or vault, and in a manner as to prevent diversion, theft, and  
5 loss.

6 (b) A facility issued a conditional license shall notify appropriate  
7 law enforcement authorities within 24 hours after discovering any  
8 of the following:

9 (1) Discrepancies identified during inventory.

10 (2) Diversion, theft, loss, or any criminal activity involving the  
11 facility or a facility agent.

12 (3) The loss or unauthorized alteration of records related to  
13 marijuana, registered qualifying patients, personal caregivers, or  
14 facility agents.

15 (4) Any other breach of security.

16 (c) A licensed cultivation site shall weigh, inventory, and  
17 account for on video, all medical marijuana to be transported prior  
18 to its leaving its origination location. Within eight hours after  
19 arrival at the destination, the licensed dispensing facility shall  
20 reweigh, reinventory, and account for on video, all transported  
21 marijuana.

22 18138. (a) The bureau shall require an annual audit of all  
23 facilities issued a conditional license to cultivate, manufacture,  
24 process, transport, store, or sell medical marijuana. The reasonable  
25 costs of the audit shall be paid for by the licensee.

26 (b) Completed audit reports shall also be submitted by the  
27 licensee to local code enforcement offices, or the appropriate  
28 locally designated enforcement entity, within 30 days of the  
29 completion of the audit.

30 (c) It is the responsibility of each facility issued a conditional  
31 license to develop a robust quality assurance protocol that includes  
32 all of the provisions of this part.

33 18139. (a) A laboratory certified by the bureau to perform  
34 random sample testing of medical marijuana products shall not  
35 acquire, process, possess, store, transfer, transport, or dispense  
36 medical marijuana for any purpose other than those authorized by  
37 Article 2.5 (commencing with Section 11362.7) of Chapter 6 of  
38 Division 10 of the Health and Safety Code. All transfer or  
39 transportation shall be performed pursuant to a specified chain of  
40 custody protocol.

1 (b) A laboratory certified by the bureau to perform random  
2 sample testing of medical marijuana products shall not acquire,  
3 process, possess, store, transfer, transport, or dispense medical  
4 marijuana plants or medical marijuana products except through a  
5 patient, primary caregiver, or a facility issued a conditional license.  
6 All transfer or transportation shall be performed pursuant to a  
7 specified chain of custody protocol.

8 18140. (a) Information identifying the names of patients, their  
9 medical conditions, or the names of their primary caregivers  
10 received and contained in records kept by the bureau for the  
11 purposes of administering this part are confidential and exempt  
12 from the California Public Records Act (Chapter 3.5 (commencing  
13 with Section 6250) of Division 7 of Title 1 of the Government  
14 Code) and are not subject to disclosure to an individual or private  
15 entity, except as necessary for authorized employees of the state  
16 to perform official duties pursuant to this part.

17 (b) (1) Nothing in this section shall preclude any of the  
18 following:

19 (A) Bureau employees notifying state or local agencies about  
20 information submitted to the bureau that the employee suspects is  
21 falsified or fraudulent.

22 (B) Notifications from the bureau to state or local agencies of  
23 apparent violations of this part or an applicable local ordinance.

24 (C) Verification of requests by state or local agencies to confirm  
25 licenses and certificates issued by the bureau or other state agency.

26 (D) Providing information requested pursuant to a court order  
27 or subpoena issued by a court, an administrative agency, or local  
28 governing body authorized by law to issue subpoenas.

29 (2) Information shall not be disclosed beyond what is necessary  
30 to achieve the goals of a specific investigation or notification or  
31 the parameters of a specific court order or subpoena.

32 18141. (a) The actions of a licensee, its employees, and its  
33 agents, that are permitted pursuant to a conditional license and that  
34 are conducted in accordance with the requirements of this part and  
35 regulations adopted pursuant to this part, are not unlawful under  
36 state law and shall not be an offense subject to arrest or  
37 prosecution.

38 (b) The actions of a person who, in good faith and upon  
39 investigation, allows his or her property to be used by a licensee,  
40 its employees, and its agents, as permitted pursuant to a conditional

1 license, are not unlawful under state law and shall not be an offense  
2 subject to arrest or prosecution.

3 (c) This section shall not be deemed to limit the authority or  
4 remedies of a city, county, or city and county under any provision  
5 of law, including, without limitation, Section 7 of Article XI of  
6 the California Constitution.

7 18142. (a) A licensee shall not cultivate, process, store,  
8 manufacture, transport, or sell medical marijuana in the state unless  
9 accurate records are kept at the licensed premises of the growing,  
10 processing, storing, manufacturing, transporting, or selling by the  
11 licensee in the state. These records shall include the name and  
12 address of the supplier of marijuana received or possessed by the  
13 licensee, the location at which the marijuana was cultivated, the  
14 amount of marijuana received, the form in which it is received,  
15 the name of the employee receiving it, and the date of receipt.  
16 These records shall also include receipts for all expenditures  
17 incurred by the licensee and banking records, if any, for all funds  
18 obtained or expended in the performance of any activity under the  
19 authority of the conditional license. A licensee who has a  
20 conditional license for more than one premises may keep all records  
21 at one of the conditionally licensed premises. Required records  
22 shall be kept for a period of seven years from the date of the  
23 transaction.

24 (b) The bureau and an appropriate state or local agency may  
25 examine the books and records of a conditional licensee and may  
26 visit and inspect the premises of a conditional licensee, as the  
27 bureau or state or local agency deems necessary to perform its  
28 duties under this part.

29 (c) Books or records requested by the bureau or an appropriate  
30 state or local agency shall be provided by the conditional licensee  
31 no later than five business days after the request is made.

32 (d) The bureau or a state or local agency may enter and inspect  
33 the premises of a facility issued a conditional license between the  
34 hours of 8 a.m. and 8 p.m. on any day that the facility is open, or  
35 at any reasonable time, to ensure compliance and enforcement of  
36 the provisions of this part or a local ordinance.

37 (e) If a licensee or an employee of a licensee refuses, impedes,  
38 obstructs, or interferes with an inspection pursuant to subdivision  
39 (d), the conditional license may be summarily suspended and the

bureau shall directly commence proceedings for the revocation of the conditional license.

(f) If a licensee or an employee of a licensee fails to maintain or provide the books and records required pursuant to this section, the licensee shall be subject to a civil fine of fifteen thousand dollars (\$15,000) per individual violation.

~~SEC. 6. Section 23028 is added to the Government Code, to read:~~

~~23028. (a) (1) In addition to any authority otherwise provided by law, the board of supervisors of a county or the city council of a city may impose, by ordinance, a tax on the privilege of cultivating, dispensing, producing, processing, preparing, storing, providing, donating, selling, or distributing marijuana by a licensee operating pursuant to Chapter 18 (commencing with Section 26000) of Division 9 of the Business and Professions Code. The tax may be imposed for general governmental purposes or for purposes specified in the ordinance by the board of supervisors or city council.~~

~~(2) The board of supervisors or city council shall specify in the ordinance proposing the tax the activities subject to the tax, the applicable rate or rates, the method of apportionment, and the manner of collection of the tax. A tax imposed pursuant to this section is a tax and not a fee or special assessment, and the tax is not required to be apportioned on the basis of benefit to any person or property or be applied uniformly to all taxpayers or all real property.~~

~~(3) A tax imposed by a city or county pursuant to this section may include a transactions and use tax imposed solely for marijuana or marijuana products, which shall otherwise conform to Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code. Notwithstanding Section 7251.1 of the Revenue and Taxation Code, the tax may be imposed at any rate specified by the board of supervisors or city council, and the tax rate authorized by this section shall not be considered for purposes of the combined tax rate limitation established by that section.~~

~~(4) The tax authorized by this section may be imposed upon any or all of the activities set forth in paragraph (1), regardless of whether the activity is undertaken individually, collectively, or cooperatively, and regardless of whether the activity is for~~

1 compensation or gratuitously, as determined by the board of  
2 supervisors or city council.

3 (5) The board of supervisors shall specify whether the tax applies  
4 throughout the entire county or within the unincorporated area of  
5 the county.

6 (b) In addition to any other method of collection authorized by  
7 law, the board of supervisors or city council may provide for the  
8 collection of the tax imposed pursuant to this section in the same  
9 manner, and subject to the same penalties and priority of lien, as  
10 other charges and taxes fixed and collected by the city or county.

11 (c) Any tax imposed pursuant to this section shall be subject to  
12 applicable voter approval requirements imposed by law.

13 (d) For purposes of this section, “marijuana” shall have the  
14 meanings set forth in Section 18100 of the Business and  
15 Professions Code.

16 (e) This section does not limit or prohibit the levy or collection  
17 or any other fee, charge, or tax, or any license or service fee or  
18 charge upon, or related to, the activities set forth in subdivision  
19 (a) as otherwise provided by law. This section shall not be  
20 construed as a limitation upon the taxing authority of a city or  
21 county as provided law.

22 SEC. 6. Section 23028 is added to the Government Code, to  
23 read:

24 23028. (a) (1) A city, county, or city and county, may impose  
25 a tax on the privilege of cultivating, dispensing, producing,  
26 processing, preparing, storing, providing, donating, selling, or  
27 distributing marijuana by a licensee operating pursuant to Part  
28 5 (commencing with Section 18100) of Division 7 of the Business  
29 and Professions Code.

30 (2) The board of supervisors or city council shall specify in the  
31 ordinance proposing the tax the activities subject to the tax, the  
32 applicable rate or rates, the method of apportionment, if necessary,  
33 and the manner of collection of the tax. The tax may be imposed  
34 for general governmental purposes or for purposes specified in  
35 the ordinance by the board of supervisors or city council.

36 (3) The tax authorized by this section may be imposed upon any  
37 or all of the activities set forth in paragraph (1) specified in the  
38 ordinance, regardless of whether the activity is undertaken  
39 individually, collectively, or cooperatively, and regardless of

1 *whether the activity is for compensation or gratuitously, as*  
2 *determined by the board of supervisors or city council.*

3 *(b) A tax imposed pursuant to this section shall be subject to*  
4 *applicable voter approval requirements imposed by law.*

5 *(c) For purposes of this section, “marijuana” has the same*  
6 *meaning as the term “marijuana product” set forth in Section*  
7 *111658 of the Health and Safety Code.*

8 *(d) This section does not limit or prohibit the levy or collection*  
9 *or any other fee, charge, or tax, or a license or service fee or*  
10 *charge upon, or related to, the activities set forth in subdivision*

11 *(a) as otherwise provided by law, including Section 37100.5. This*  
12 *section shall not be construed as a limitation upon the taxing*  
13 *authority of a city, county, or city and county as provided by law.*

14 SEC. 7. Section 11362.775 of the Health and Safety Code is  
15 amended to read:

16 11362.775. (a) Qualified patients, persons with valid  
17 identification cards, and the designated primary caregivers of  
18 qualified patients and persons with identification cards, who  
19 cultivate marijuana for medical purposes, shall not solely on the  
20 basis of that fact be subject to state criminal sanctions under  
21 Section 11357, 11358, 11359, 11360, 11366, 11366.5, or 11570.

22 (b) An individual employee, officer, or board member of a  
23 facility issued a conditional license pursuant to Part 5 (commencing  
24 with Section 18100) of Division 7 of the Business and Professions  
25 Code shall not be subject to state criminal sanctions under Section  
26 11357, 11358, 11359, 11360, 11366, 11366.5, or 11570 and any  
27 successor statutes, based solely on holding a conditional license,  
28 for the possession, cultivation, processing, packaging, storage,  
29 transportation, sale, or distribution of medical marijuana to a  
30 facility holding a conditional license pursuant to Part 5  
31 (commencing with Section 18100) of Division 7 of the Business  
32 and Professions Code or directly to a qualified patient, a person  
33 with a valid identification card, or the designated primary caregiver  
34 of a qualified patient or person with a valid identification card,  
35 within the state, unless the information contained on the licensing  
36 paperwork is false or falsified, the license has been obtained by  
37 means of fraud, or the person is otherwise in violation of Part 5  
38 (commencing with Section 18100) of Division 7 of the Business  
39 and Professions Code.

(c) This section shall not diminish the protections of Section 18141 of the Business and Professions Code.

SEC. 8. Article 8 (commencing with Section 111658) is added to Chapter 6 of Part 5 of Division 104 of the Health and Safety Code, to read:

Article 8. Medical Marijuana

111658. For purpose of this article, the following definitions shall apply:

(a) “Bureau” means the Bureau of Medical Marijuana Regulations in the Department of Consumer Affairs.

(b) “Certified testing—laboratories” *laboratory* means a laboratory that is certified by the bureau to perform random sample testing of medical marijuana for patients, primary caregivers, and facilities issued conditional licenses pursuant to Part 5 (commencing with Section 18100) of Division 7 of the Business and Professions Code, pursuant to the certification standards for those facilities promulgated by the bureau.

(c) “Edible medical marijuana product” means medical marijuana or a medical marijuana-derived product that is ingested or meant to be ingested through the mouth and into the digestive system.

(d) “Marijuana” means all parts of the plant *Cannabis sativa* L. *sativa*, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Marijuana” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. “Marijuana” also means marijuana, as defined by Section 11018.

(e) “Labor peace agreement” means an agreement between an entity and a bona fide labor organization that, at a minimum, protects the state’s proprietary interests by prohibiting labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the



1 applicant's business. This agreement means that the applicant has  
2 agreed not to disrupt efforts by the bona fide labor organization  
3 to communicate with, and attempt to organize and represent, the  
4 applicant's employees.

5 (f) "Representative samples" means samples taken from each  
6 batch or shipment of medical marijuana received from a licensed  
7 cultivation site or any other source if intended for sale.

8 111659. The bureau, by July 1, 2017, shall accomplish both  
9 of the following:

10 (a) Establish quality assurance protocols to ensure uniform  
11 testing standards for all medical marijuana sold via dispensaries  
12 or other facilities, or cultivated or manufactured by facilities, that  
13 are issued a conditional license pursuant to Part 5 (commencing  
14 with Section 18100) of Division 7 of the Business and Professions  
15 Code.

16 (b) In consultation with outside entities at its discretion, develop  
17 a list of certified testing laboratories that can perform uniform  
18 testing in compliance with this article, and post that list on its  
19 Internet Web site.

20 111660. (a) A facility issued a conditional license pursuant to  
21 Part 5 (commencing with Section 18100) of Division 7 of the  
22 Business and Professions Code shall bear the responsibility for  
23 contracting with certified testing laboratories for regular, systematic  
24 testing of representative samples of all medical marijuana cultivated  
25 or intended for sale or distribution, and shall bear the cost of that  
26 testing.

27 (b) A facility issued a conditional license pursuant to Part 5  
28 (commencing with Section 18100) of Division 7 of the Business  
29 and Professions Code shall maintain records of testing reports for  
30 seven years, either on site in a digital format or at a secure offsite  
31 location in either digital or paper format. These facilities shall  
32 provide results of test reports to local code enforcement officers,  
33 any other locally designated enforcement entity, and the bureau  
34 upon request.

35 111661. Quality assurance protocols shall be required between  
36 all licensed cultivation sites, licensed manufacturers, and licensed  
37 dispensing facilities to guarantee safe and reliable medicinal  
38 marijuana delivery to all patients. These quality assurance protocols  
39 shall include:

1 (a) Providing supplier information to dispensaries in order for  
2 recall procedures to be implemented, if and when necessary.

3 (b) Safety testing of all medical marijuana prior to packaging  
4 for sale and patient exposure to identify and eliminate  
5 microbiological contaminants and chemical residue.

6 (c) Labeling of all medical marijuana and medical marijuana  
7 products that shall, at a minimum, include the following:

8 (1) List of pharmacologically active ingredients, including, but  
9 not limited to, tetrahydrocannabinol (THC) and cannabidiol (CBD)  
10 content, clear recommended dosage, and the size or volume of the  
11 recommended dose.

12 (2) Clear indication, in bold font, that the product contains  
13 medical marijuana.

14 (3) The statement “FOR MEDICAL USE ONLY. KEEP OUT  
15 OF REACH OF CHILDREN AND ANIMALS” in bold print.

16 (4) Identification of the source and date of cultivation and  
17 manufacture.

18 (5) The name and location of the dispensary providing the  
19 product.

20 (6) The date of sale.

21 (7) Any other requirements set by the bureau.

22 111662. For purposes of this article, edible medical marijuana  
23 products are deemed to be unadulterated food products. In addition  
24 to the quality assurance standards provided in Section 111661, all  
25 edible medical marijuana products shall comply with the following  
26 requirements:

27 (a) Baked edible medical marijuana products, including, but not  
28 limited to, brownies, bars, cookies, and cakes, tinctures, and other  
29 edible medical marijuana products that do not require refrigeration  
30 or hot holding may be manufactured, sold, or otherwise distributed  
31 at facilities issued a conditional license pursuant to Part 5  
32 (commencing with Section 18100) of Division 7 of the Business  
33 and Professions Code.

34 (b) A facility issued a conditional license pursuant to Part 5  
35 (commencing with Section 18100) of Division 7 of the Business  
36 and Professions Code shall have an owner or employee who has  
37 successfully passed an approved and accredited food safety  
38 certification examination as specified in Sections 113947.1,  
39 113947.2, and 113947.3 prior to selling, manufacturing, or

1 distributing edible medical marijuana products requiring  
2 refrigeration or hot holding.

3 (c) Individuals manufacturing or selling edible medical  
4 marijuana products shall thoroughly wash their hands before  
5 commencing production and before handling finished edible  
6 medical marijuana products.

7 (d) All edible medical marijuana products sold for direct  
8 consumption and infused with marijuana concentrate shall be  
9 individually wrapped at the original point of preparation. The  
10 products shall be packaged in a fashion that does not exceed a  
11 single dosage for one individual.

12 (e) Products containing tetrahydrocannabinol (THC) shall be  
13 prepared in compliance with maximum potency standards for THC  
14 and THC concentrates set forth in the bureau's regulations.

15 (f) Prior to sale or distribution at a licensed dispensing facility,  
16 edible medical marijuana products shall be labeled and in an  
17 opaque and tamper evident package. Labels and packages of edible  
18 medical marijuana products shall meet the following requirements:

19 (1) Edible medical marijuana packages and labels shall not be  
20 made to be attractive to children.

21 (2) All edible medical marijuana product labels shall include  
22 the following information, prominently displayed and in a clear  
23 and legible font:

24 (A) Manufacture date and source.

25 (B) The statement "KEEP OUT OF REACH OF CHILDREN  
26 AND ANIMALS" in bold print.

27 (C) The statement "FOR MEDICAL USE ONLY."

28 (D) Net weight of medical marijuana in package.

29 (E) A warning if nuts or other known allergens are used and  
30 shall include the total weight, in ounces or grams, of medical  
31 marijuana in the package.

32 (F) List of pharmacologically active ingredients, including, but  
33 not limited to, tetrahydrocannabinol (THC) and cannabidiol (CBD)  
34 content, clear recommended dosage, and the size or volume of  
35 recommended dose.

36 (G) Any other requirement set by the bureau.

37 (g) Photos or images of food are not allowed on edible medical  
38 marijuana product packages or labels.

39 (h) Only generic food names may be used to describe edible  
40 medical marijuana products.

1 SEC. 9. On or before July 1, 2016, the State Board of  
2 Equalization shall compile a report on the ~~actual~~ *estimated* tax  
3 collected on the sale of medical marijuana, using the most current  
4 data available. The report should also include expected tax  
5 revenues, under the existing tax structure, for the years 2016 to  
6 2021, inclusive. This report shall be submitted to the Legislature  
7 and the Governor's office pursuant to Section 9795 of the  
8 Government Code.

9 SEC. 10. The provisions of this act are severable. If any  
10 provision of this act or its application is held invalid, that invalidity  
11 shall not affect other provisions or applications that can be given  
12 effect without the invalid provision or application.

13 SEC. 11. The Legislature finds and declares that Section 5 of  
14 this act imposes a limitation on the public's right of access to the  
15 meetings of public bodies or the writings of public officials and  
16 agencies within the meaning of Section 3 of Article I of the  
17 California Constitution. Pursuant to that constitutional provision,  
18 the Legislature makes the following findings to demonstrate the  
19 interest protected by this limitation and the need for protecting  
20 that interest:

21 The limitation imposed under this act is necessary for purposes  
22 of compliance with the federal Health Insurance Portability and  
23 Accountability Act of 1996 (42 U.S.C. Sec. 1320d et seq.), the  
24 Confidentiality of Medical Information Act (Part 2.6 (commencing  
25 with Section 56) of Division 1 of the Civil Code), and the Insurance  
26 Information and Privacy Protection Act (Article 6.6 (commencing  
27 with Section 791) of Part 2 of Division 1 of the Insurance Code).

28 SEC. 12. No reimbursement is required by this act pursuant to  
29 Section 6 of Article XIII B of the California Constitution because  
30 the only costs that may be incurred by a local agency or school  
31 district will be incurred because this act creates a new crime or  
32 infraction, eliminates a crime or infraction, or changes the penalty  
33 for a crime or infraction, within the meaning of Section 17556 of  
34 the Government Code, or changes the definition of a crime within  
35 the meaning of Section 6 of Article XIII B of the California  
36 Constitution.